IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4533 of 2007()

CRA.403/2006 of ADDL. SESSIONS COURT (ADHOC), KOZHIKODE
CC.113/2004 of JUDL.MAGISTRATE OF FIRST CLASS, PERAMBRA

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REVN. PETITIONER: REVISION PETITIONERS/APPELLANTS/ACCUSED

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1. BINOJ, S/O DEVASIYA,
   KINGINIPPARA HOUSE, KATHULLA MALAYIL LAKSHAM
   VEEDU COLONY, KOORACHUNDU, KOYILANDY,
   KOZHIKODE DISTRICT.

2. BAIJU, S/O DEVASIYA,
   -DO- -DO-

BY ADV. SRI.K.P.SUDHEER

RESPONDENTS: RESPONDENTS/STATE & INJURED

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1. STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM, REPRESENTING STATION HOUSE OFFICER,
   KOORACHUNDU POLICE STATION, KOORACHUNDU.

2. KADEEJA, W/O KUNHAMMAD,
   THEKKEKULANGARA VEEDU, KATTULLAMALA LAKSHAM
   VEEDU COLONY, KOORACHUNDU POST,
   KOYILANDY, KOZHIKODE DISTRICT.

3. JANU, W/O MADHAVAN,
   NEDUNGASSERI VEEDU, KATTULLAMALA LAKSHAMVEEDU
   COLONY, KOORACHUNDU POST, KOZHIKODE DISTRICT.

BY ADV. SRI.SANTHEEP ANKARATH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. NO.4533 OF 2007

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Dated: 17-12-2007

ORDER

The revision petitioners who are the accused in C.C. No. 113 of 2004 on the file of the J.F.C.M.I, Perambra for offences punishable under Sections 452, 323, 324 and 354 read with Section 34 I.P.C. stand concurrently convicted of offences punishable under Secs. 452, 323 and 324 read with Sec. 34 I.P.C.

2. Pending this Revision, parties have compounded the above offences. Eventhough they have filed Crl. M.A. No.13431 of 2007 seeking permission to compound all the offences, the offence punishable under Section 452 is not compoundable. Permission is, therefore, granted to compound the offences punishable under Sections 323 and 324 I.P.C. The composition of those two offences is recorded and it will have the effect of acquitting the revision petitioners of the offences punishable under Sections 323 and 324 I.P.C. in view of Section 320 (8) Cr.P.C.

3. The only surviving offence is one punishable under Section 452 I.P.C. . There cannot be any criminal trespass when the accused have been acquitted of all the other offences alleged against them. It

cannot, therefore, be said that they trespassed upon the property of the complainant for the purpose of committing any offence. Hence, the conviction under Sec. 452 Cr.P.C. cannot survive. Petitioners are accordingly acquitted of the offence punishable under Sec. 452 I.P.C. and are set at liberty forthwith.

This Revision is disposed of as above.

V. RAMKUMAR,
(JUDGE)

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